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KERALA GAZETTE

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THE KERALA LEGISLATURE SECRETARIAT

NOTIFICATION

No. 2783-LA4|67. *Dated, Trivandrum 26th June 1967.*

The following Bill together with the Statement of Objects and Reasons and the Memorandum regarding Delegated Legislation is published, under Rule. 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

L. DHARMARAJA IYER,
Secretary,
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS,
TRIVANDRUM, 1967

THE KERALA STAMP (AMENDMENT) BILL, 1967

A

BILL

further to amend the Kerala Stamp Act, 1959.

Preamble.—WHEREAS it is expedient further to amend the Kerala Stamp Act, 1959, for the purposes hereinafter appearing;

BE it enacted in the Eighteenth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Stamp (Amendment) Act, 1967.

(2) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Amendment of references to naye paise.*—In the Kerala Stamp Act, 1959 (17 of 1959) (hereinafter referred to as the principal Act), for the words "naye paise", wherever they occur, the word "paise" shall be substituted.

3. *Amendment of section 6.*—In the proviso to section 6 of the principal Act, for the words "two rupees", the words "four rupees fifty paise" shall be substituted.

4. *Substitution of new section for section 16.*—For section 16 of the principal Act, the following section shall be substituted, namely:—

"16. *Denoting duty.*—Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty actually paid in respect of another instrument, the payment of such last mentioned duty shall be denoted upon such first mentioned instrument by—

(i) the Collector if application is made in writing for the purpose and on production of both the instruments; or

(ii) by the Registering Officer on production of both the instruments,

by endorsement under the hand of the Collector or the Registering Officer, as the case may be, or in such other manner as the Government may by rules prescribe."

5. *Amendment of section 30.*—In clause (a) of section 30 of the principal Act, for the letters, figures, brackets and words "No. 24 (Customs Bond)", the letters, figures, brackets and words "No. 24 (Customs Bond or Central Excise Bond)" shall be substituted.

6. *Insertion of new section 45A.*—After section 45 of the principal Act, the following section shall be inserted, namely:—

"45A. *Instruments undervalued how to be dealt with.*—(1) If the Registering Officer, while registering any instrument transferring any property, has reason to believe that the value of the property or the consideration, as the case may be has not been truly set forth in the instrument, he may, after registering such document, refer the same to the Collector for determination of the value or consideration, as the case may be, and the proper duty payable thereon.

(2) On receipt of a reference under sub-section (1), the Collector shall, after giving the parties a reasonable opportunity of being heard and after holding an enquiry in such manner as may be prescribed by rules made under this Act, by order, determine the value of the property or the consideration and the duty aforesaid; and the deficient amount of duty, if any, shall be payable by the person liable to pay the duty and, on the payment of such duty, the Collector shall endorse a certificate of such payment on the document under his seal and signature.

(3) Any person aggrieved by an order of the Collector under sub-section (2) may appeal to the District Court within whose jurisdiction the property transferred is situate.

(4) An appeal under sub-section (3) shall be filed within thirty days of the date of the order sought to be appealed against.

(5) The District Court shall hear and dispose of the appeal in such manner as may be prescribed by rules made under this Act."

7. *Amendment of the Schedule.*—In the Schedule to the principal Act,—

(i) for entries 1 to 9, the following entries shall be substituted, namely:—

Sl. No.	*Description of instrument*	*Proper stamp duty*
"1.	ACKNOWLEDGEMENT of a debt exceeding twenty rupees in amount or value written or signed by, or on behalf of a debtor in order to supply evidence of such debt in any book (other than a banker's pass book) or on a separate piece of paper when such book or paper is left in the creditor's possession : Provided that such acknowledgement does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property.	Twenty paise
2.	ADMINISTRATION BOND including a bond given under Section 291 or Section 375 of the Indian Succession Act, 1925 (Central Act 39 of 1925) or Section 6 of the Government Savings Banks Act, 1873 (Central Act 5 of 1873)—	
	(a) Where the amount or value secured does not exceed Rs. 10	Thirty paise
	Where it exceeds Rs. 10 and does not exceed Rs. 50	Seventy-five paise
	Where it exceeds Rs. 50 and does not exceed Rs. 100	One rupee fifty paise
	Where it exceeds Rs. 100 and does not exceed Rs. 200	Three rupees
	Where it exceeds Rs. 200 and does not exceed Rs. 300	Four rupees fifty paise
	Where it exceeds Rs. 300 and does not exceed Rs. 400	Six rupees

Sl.No.	Description of instrument	Proper stamp duty
	Where it exceeds Rs. 400 and does not exceed Rs. 500	Seven rupees fifty paise
	Where it exceeds Rs. 500 and does not exceed Rs. 600	Ten rupees ten paise
	Where it exceeds Rs. 600 and does not exceed Rs. 700	Eleven rupees eighty-five paise
	Where it exceeds Rs. 700 and does not exceed Rs. 800	Thirteen rupees fifty paise
	Where it exceeds Rs. 800 and does not exceed Rs. 900	Fifteen rupees twenty-five paise
	Where it exceeds Rs. 900 and does not exceed Rs. 1,000	Sixteen rupees eighty five paise
	(b) In any other case	Twenty-two rupees fifty paise
3.	ADOPTION DEED that is to say, any instrument (other than a Will) recording an adoption or confering or purporting to confer an authority to adopt	Thirty-three rupees eighty paise
4.	AFFIDAVIT, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing	Four rupees fifty paise
	Exemptions	
	Affidavit or declaration in writing when made—	
	(a) as a condition of enlistment under the Army Act, 1950 (Central Act 46 of 1950);	

(b) for the immediate purpose of being filed or used in any Court or before the officer of any Court; or	
(c) for the sole purpose of enabling any person to receive any pension or charitable allowance	
5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT—	
(a) If relating to the sale of a bill of exchange	Sixty paise
(b) If relating to the sale of Government security or share in an incorporated company or other body corporate	Subject to maximum of forty-five rupees, thirty paise for every Rs. 10,000 or part thereof of the value of the security or share
(c) If not otherwise provided for	Two rupees thirty paise
Exemptions	
Agreement or memorandum of agreement—	
(a) for or relating to the sale of goods or merchandise exclusively, not being a note or memorandum chargeable under No. 39;	
(b) made in the form of tenders to the Central Government, or to the Government of Kerala, for, or relating to any loan.	
6. AGREEMENT RELATING TO DEPOSIT OF TITLE DEEDS, PAWN OR PLEDGE, that is to say, any instrument evidencing any agreement relating to—	
(1) the deposit of title deeds or instruments constituting or being evidence of the title to any property whatever (other than marketable security), or	

Sl.No.	Description of instrument		Proper stamp duty		
	(2) the pawn or pledge of movable property where such deposit, pawn or pledge has been made by way of security for the repayment of the money advanced or to be advanced by way of loan or an existing or future debt—				
	(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement—		If drawn singly	If drawn in set of two, for each part of the set	If drawn in set of three, for each part of the set
			(1)	(2)	(3)
			Rs.	Rs.	Rs.
	(i) If the amount secured does not exceed Rs.	200	0.90	0.60	0.30
	(ii) If it exceeds Rs. 200 but does not exceed Rs.	400	1.70	0.90	0.60
	Do. 400 do.	600	2.60	1.40	0.90
	Do. 600 do.	800	3.40	1.70	1.10
	Do. 800 do.	1000	4.30	2.30	1.40
	Do. 1000 do.	1200	5.10	2.60	1.70
	Do. 1200 do.	1600	6.80	3.40	2.30
	Do. 1600 do.	2500	10.20	5.10	3.45
	Do. 2500 do.	5000	20.30	10.10	6.80
	Do. 5000 do.	7500	30.45	15.20	10.20
	Do. 7500 do.	10,000	40.50	20.30	13.50
	Do. 10,000 do.	15,000	60.80	30.40	20.30
	Do. 15,000 do.	20,000	81.00	40.50	27.00
	Do. 20,000 do.	25,000	101.30	50.60	33.80
	Do. 25,000 do.	30,000	121.50	60.80	40.50
	and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000		40.50	20.30	13.50

(b) If such loan or debt is repayable not more than 3 months from the date of such instrument	Half the duty payable under clause (a)(i) or (ii) above
Exemption	
Instrument of pawn or pledge of goods if unattested	
7. APPOINTMENT IN EXECUTION OF A POWER, whether of trustees or of property movable or immovable where made by any writing not being a Will	Fifty-six rupees thirty paise
8. APPRAISEMENT OR VALUATION made otherwise than under an order of a Court in the course of a suit—	
(a) Where the amount does not exceed Rs. 1,000	The same duty as a Bottomry Bond (No. 14) for such amount
(b) in any other case	Twenty two rupees fifty paise
Exemptions	
(a) Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.	
(b) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.	
9. APPRENTICESHIP DEED, including every writing relating to the service or tuition of any apprentice, clerk or servant placed with any master to learn any profession, trade or employment, not being articles of clerkship (No. 11)	Eleven rupees thirty paise.";

Sl. No.	Description of instrument	Proper stamp duty
	(ii) for entries 12, 13 and 14, the following entries shall be substituted, namely:—	
"12.	Award, that is to say, any decision in writing by an arbitrator or umpire not being an award directing a partition on a reference made otherwise than by the order of the court in the course of a suit—	
	(a) Where the amount or value of the property to which the award relates as set forth in such award does not exceed Rs. 1,000;	The same duty as a Bottomry Bond (No. 14) for such amount
	(b) If it exceeds Rs. 1,000 but does not exceed Rs. 5,000	Thirty rupees
	and for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000.	One rupee fifty paise subject to a maximum of one hundred and fifty rupees
13.	BOND as defined by section 2 (a) not being a debenture and not being otherwise provided for by this Act or by the Kerala Court Fees and Suits Valuation Act, 1959 (10 of 1960) or other enactment for the time being in force—	
	Where the amount or value secured does not exceed Rs. 10	Forty paise
	Where the amount exceeds Rs. 10 and does not exceed Rs. 50	Eighty paise
	Where it exceeds Rs. 50 and does not exceed Rs. 100	One rupee fifty paise
	Where it exceeds Rs. 100 and does not exceed Rs. 200	Three rupees eighty paise

Where it exceeds Rs. 200 and does not exceed Rs. 300	Four rupees sixty paise
Where it exceeds Rs. 300 and does not exceed Rs. 400	Seven rupees fifty paise
Where it exceeds Rs. 400 and does not exceed Rs. 500	Nine rupees forty paise
Where it exceeds Rs. 500 and does not exceed Rs. 600	Thireen rupees fifty paise
Where it exceeds Rs. 600 and does not exceed Rs. 700	Fifteen rupees eighty paise
Where it exceeds Rs. 700 and does not exceed Rs. 800	Eighteen rupees
Where it exceeds Rs. 800 and does not exceed Rs. 900	Twenty rupees thirty paise
Where it exceeds Rs. 900 and does not exceed Rs. 1,000	Twenty-two rupees fifty paise
And for every Rs. 500 or part thereof in excess of Rs. 1,000	Eleven rupees thirty paise

Exemptions

(a) Bail bonds and recognizances executed in criminal cases

(b) Bond, when executed by any person for the purpose of guaranteeing that the local income derived from private subscribtions to a charitable dispensary or hospital or any other object of public utility, shall not be less than a specified sum per mensem

Sl. No.	Description of instrument	Proper stamp duty
14.	BOTTOMRY BOND, that is to say, any instrument whereby the master of a seagoing ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage—	
	Where the amount or value secured does not exceed Rs. 10	Sixty paise
	Where it exceeds Rs. 10 and does not exceed Rs. 50	One rupee ten paise
	Where it exceeds Rs. 50 and does not exceed Rs. 100	Two rupees thirty paise
	Where it exceeds Rs. 100 and does not exceed Rs. 200	Four rupees fifty paise
	Where it exceeds Rs. 200 and does not exceed Rs. 300	Seven rupees fifty paise.
	Where it exceeds Rs. 300 and does not exceed Rs. 400	Nine rupees
	Where it exceeds Rs. 400 and does not exceed Rs. 500	Eleven rupees thirty paise
	Where it exceeds Rs. 500 and does not exceed Rs. 600	Thirteen rupees fifty paise
	Where it exceeds Rs. 600 and does not exceed Rs. 700	Fifteen rupees eighty paise
	Where it exceeds Rs. 700 and does not exceed Rs. 800	Eighteen rupees
	Where it exceeds Rs. 800 and does not exceed Rs. 900	Twenty rupees thirty paise

Where it exceeds Rs. 900 and does not exceed Rs. 1,000	Twenty two rupees fifty paise
And for every Rs. 500 or part thereof in excess of Rs. 1,000	Eleven rupees thirty paise".;

(iii) for entry 16, the following entry shall be substituted, namely:—

"16. CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by A Civil or Revenue Court or by the Government, Collector or other Revenue Officer—	
(a) Where the purchase money does not exceed Rs. 10	Sixty paise
(b) Where the purchase money exceeds Rs. 10 but does not exceed Rs. 25	One rupee ten paise
(c) In any other case	The same duty as a conveyance (No. 21 or 21 A as the case may be) for a consideration equal to the amount of the purchase money only.":

(iv) for entry 18, the following entry shall be substituted, namely:—

"18. CHARTER PARTY, that is to say, any instrument except an agreement for the hire of a tugsteamer, whereby a vessel or some specified principal part thereof is let for the specified purpose of the charterer whether it includes a penalty clause or not.—	Four rupees fifty paise.";

Sl. No.	Description of instrument	Proper stamp duty
	(v) for entry 20, the following entry shall be substituted, namely:—	
"20.	COMPOSITION DEED, that is to say, any instrument executed by the debtor whereby he conveys his property for the benefit of his creditors or whereby payment of a composition or dividend on their debt is secured to the creditors or whereby provision is made for the continuance of the debtor's business under the supervision of Inspectors or under letters of licence for the benefit of his creditors.	Thirty-three rupees eighty paise.'';
	(vi) for entries 22, 23, 24 and 25, the following entries shall be substituted, namely:—	
"22.	COPY OR EXTRACT certified to be a true copy or extract, by or by order of any public officer and not chargeable under the law for the time being in force relating to court fees—	
	(i) If the original was not chargeable with duty or the duty with which it was chargeable does not exceed Rupee one	Two rupees thirty paise
	(ii) In any other case	Four rupees fifty paise
	Exemptions	
	(a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.	

(b) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, divorces, deaths or burials.	
23. COUNTERPART OR DUPLICATE of any instrument chargeable with duty and in respect of which the proper duty has been paid—	
(i) If the duty with which the original instrument was chargeable does not exceed Rs. 4.50.	The same duty as is payable on the original
(ii) In any other case	Four rupees fifty paise
Exemption	
Counterpart of any lease granted to a cultivator, when such lease is exempted from duty	
24. CUSTOMS BOND OR CENTRAL EXCISE BOND—	
(a) Where the amount does not exceed Rs. 1,000.	The same duty as a Bottomry Bond (No. 14) for such amount
(b) In any other case	Thirty rupees
25. DELIVERY ORDER in respect of goods, that is to say, any instrument entitling any person therein named, or his assigns, or the holder thereof, to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods, upon the sale or transfer of the property therein, where such goods exceed in value twenty rupees.	Twenty paise.";

Sl. No.	Description of instrument	Proper stamp duty
	(vii) for entries 27, 28, 29 and 30, the following entries shall be substituted, namely:—	
"27.	ENTRY AS AN ADVOCATE on the roll of the High Court—	
	(a) In the case of an Advocate	Five hundred rupees
	(b) In the case of an Attorney	Three hundred and twelve rupees
	Exemptions	
	(a) Entry as an Advocate on the roll of the High Court, when he has been previously enrolled as a Vakil in the same High Court or as an Advocate or Vakil in any other High Court.	
	(b) Entry as an Attorney on the roll of any High Court when he has been previously enrolled as an Advocate or Vakil in the same High Court or as an Advocate, Vakil or Attorney in any other High Court.	
28.	EXCHANGE OF PROPERTY—INSTRUMENT OF	The same duty as a conveyance (No. 21 or 21A, as the case may be) for a consideration equal to the value of the property of greater value as set forth in such instrument.
29.	FURTHER CHARGE—Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—	
	(a) When the original mortgage is one of the description referred to in clause (a) of article 36 (that is, with possession)	The same duty as a conveyance (No. 21 or 21A, as the case may be) for a consideration equal to the amount of the further charge secured by such instrument

(b) When such mortgage is one of the description referred to in clause (b) of article 36 (that is, without possession)—	
(i) If at the time of execution of the instrument of further charge possession of property is given or agreed to be given under such instrument.	The same duty as a conveyance (No. 21 or 21A, as the case may be) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made), less the duty already paid on such original mortgage and further charge
(ii) If possession is not so given	The same duty as a Bottomry Bond (No. 14) for the amount of the further charge secured by such instrument
30. GIFT—Instrument of, not being a settlement or Will or transfer.	The same duty as a conveyance (No. 21 or 21A, as the case may be) for a consideration equal to the value of the property as set forth in the instrument.";

(viii) for entry 32, the following entry shall be substituted, namely:—

"32. LEASE—including an under-lease or sub-lease and any agreement to let or sub-let—	
(a) Where by such lease the rent is fixed and no premium is paid or delivered—	
(i) Where the lease purports to be for a term of less than one year	The same duty as a Bottomry Bond (No. 14) for the whole amount payable or deliverable under such lease
(ii) Where the lease purports to be for a term of not less than one year but not more than 5 years	The same duty as a Bottomry Bond (No. 14) for the amount or value of the average annual rent reserved

Sl.No.	Description of instrument	Proper stamp duty
	(iii) Where the lease purports to be for a term exceeding 5 years but not exceeding 10 years	The same duty as a Conveyance (No. 21 or 21A, as the case may be) for a consideration equal to the amount or value of the average annual rent reserved
	(iv) Where the lease purports to be for a term exceeding 10 years but not exceeding 20 years	The same duty as a Conveyance (No. 21 or 21A, as the case may be) for a consideration equal to twice the amount or value of the average annual rent reserved
	(v) Where the lease purports to be for a term exceeding 20 years but not exceeding 30 years	The same duty as a Conveyance (No. 21 or 21A, as the case may be) for a consideration equal to three times the amount or value of the average rent reserved
	(vi) Where the lease purports to be for a term exceeding 30 years but not exceeding 100 years	The same duty as a Conveyance (No. 21 or 21A, as the case may be) for a consideration equal to four times the amount or value of the average annual rent reserved
	(vii) Where the lease purports to be for a term exceeding 100 years or in perpetuity	The same duty as a Conveyance (No. 21 or 21A, as the case may be) for a consideration equal to one-sixth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease
	(viii) Where the lease does not purport to be for any definite term	The same duty as a Conveyance (No. 21 or 21A, as the case may be) for a consideration equal to three times the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long

(b) Where the lease is granted for a fine or premium or for money advanced and where no rent is reserved	The same duty as a Conveyance (No. 21 or 21A, as the case may be) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease
(c) Where the lease is granted for a fine or premium or for money advanced in addition to rent reserved	The same duty as a Conveyance (No. 21 or 21A, as the case may be) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease in addition to the duty which would have been payable on such lease if no fine or premium or advance had been paid or delivered: Provided that in any case where an agreement to lease is stamped with *ad valorem* stamp required for a lease and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed one rupee ninety-five paise

Exemptions

(a) Lease, executed in the case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink), without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees

Explanation—When a lessee undertakes to pay any recurring charge, such as Government revenues the land-lord's share of cesses, or the owner's share of Municipal rates or taxes which is by law recoverable from the lessor, the amount so agreed to be paid by the lessee shall be deemed to be part of the rent

Sl.No.	Description of instrument	Proper stamp duty
	(b) Leases of fisheries granted by the Government.'';	
	(ix) for entries 34, 35, 36 and 37, the following entries shall be substituted, namely:—	
"34.	LETTER OF LICENCE, that is to say, any agreement between a debtor and his creditors that the latter shall for a specified term suspend their claims and allow the debtor to carry on business at his own discretion	Thirty-three rupees eighty paise
35.	MEMORANDUM OF ASSOCIATION OF A COMPANY—	
	(a) If accompanied by articles of Association under the Companies Act, 1956 (Central Act 1 of 1956)	Ninety rupees
	(b) If not so accompanied	Two hundred and forty rupees
	Exemption	
	Memorandum of any association not formed for profit and registered under the Companies Act, 1956 (Central Act 1 of 1956)	
36.	MORTGAGE DEED, NOT BEING AN AGREEMENT relating to deposit of title deeds, pawn or pledge (No. 6), Bottomry Bond (No. 14), Mortgage of a crop (No. 37), Respondentia Bond (No. 48) or Security Bond (No. 49)—	
	(a) When possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given	Same duty as a Conveyance (No. 21 or 21A, as the case may be) for a consideration equal to the amount secured by such deed

(b) When possession is not given or agreed to be given as aforesaid	Same duty as a Bottomry Bond (No. 14) for the amount secured by such deed
Explanation.—A mortgagor who gives or has given to the mortgagee a power-of-attorney to collect rents or gives or has given to the mortgagee a lease of the property mortgaged or part thereof, is deemed to give possession thereof within the meaning of this article	
(c) When a collateral or auxiliary or additional or substituted security or by way of further assurance for the above mentioned purpose where the principal or primary security is duly stamped, for every sum secured not exceeding Rs. 1,000	Two rupees thirty paise
and	
for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000	Two rupees thirty paise

Exemptions

(1) Instruments executed by persons taking advances from Government for agricultural purposes or by their sureties as security for the repayment of such advances

(2) Letter of hypothecation accompanying a bill of exchange

Sl. No.	Description of instrument	Proper stamp duty
37.	MORTGAGE OF A CROP, including any instruments evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—	
	(a) When the loan is repayable not more than 3 months from the date of the instrument—	
	for every sum secured not exceeding Rs. 200	Forty paise
	for every Rs. 200 or part thereof secured in excess of Rs. 200	Forty paise
	(b) When the loan is repayable more than three months but not more than 18 months from the date of the instrument—	
	for every sum secured not exceeding Rs. 100	Sixty paise
	for every Rs. 100 or part thereof secured in excess of Rs. 100	Sixty paise.";

(x) for entry 39, the following entry shall be substitued, namely:—

Sl. No.	Description of instrument	Proper stamp duty
"39.	NOTE OR MEMORANDUM sent by a Broker or agent to his principal intimating the purchase or sale on account of such principal—	
	(a) of any goods exceeding in value twenty rupees	Sixty paise
	(b) of any stock or marketable security exceeding in value twenty rupees	Subject to a maximum of Rupees forty five, forty paise for every Rs. 10,000 or part thereof of the value of the stock or security.";

(xi) for entries 41, 42 and 43, the following entries shall be substituted, namely:—

"41. PARTITION—instrument of [as defined by Section 2(K)]

The same duty as a Bottomry Bond (No. 14) for the amount of the value of the separated share or shares of the property

N. B.— The largest share remaining after the property is partitioned (or if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated:

Provided always that—

(a) when an instrument of partition containing an agreement to divide property in severalty is executed and partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than two rupees thirty paise;

(b) where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at twenty-five times the annual revenue;

(c) where a final order for effecting a partition passed by any Revenue Authority or any civil court, or an award by an arbitrator directing a partition is stamped with the stamp required for an instrument of partition, and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed two rupees thirty paise.

Sl. No.	Description of instrument	Proper stamp duty
42.	PARTNERSHIP—	
	A. Instrument of—	
	(a) Where the capital of the partnership does not exceed Rs. 1000	Fifteen rupees
	(b) In any other case	Sixty rupees
	B. Dissolution of—	Thirty rupees
43.	POWER OF ATTORNEY (as defined by section 2(p)) not being a proxy—	
	(a) When executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents	One rupee fifteen paise
	(b) When authorising one person or more to act in a single transaction other than the case mentioned in clause (a)	Two rupees thirty paise
	(c) When authorising not more than 5 persons to act jointly and severally in more than one transaction or generally	Sixteen rupees ninety paise
	(d) When authorising more than 5 but not more than 10 persons to act jointly and severally in more than one transaction or generally	Thirty three rupees eighty paise
	(e) When given for consideration and authorising the attorney to sell any immovable property	The same duty as a Conveyance (No. 21 or 21A, as the case may be) for the amount of the consideration
	(f) In any other case	Three rupees forty paise for each person authorised.
	Explanation:—For the purposes of this article, more persons than one when belonging to the same firm shall be deemed to be one person.";	

(xii) for entries 46 and 47, the following entries shall be substituted, namely:—

"46. RECONVEYANCE OF MORTGAGED PROPERTY—

(a) If the consideration for which the property was mortgaged does not exceed Rs. 1,000	The same duty as a Conveyance (No. 21, or 21A, as the case may be) for the amount of such consideration as set forth in the reconveyance.
(b) In any other case	Sixty rupees in the case of immovable properties situated in the areas referred to in Article 21A and forty five rupees in the case of immovable properties situated in other areas.

47. RELEASE, that is to say, any instrument (not being such a release as is provided for by section 24), whereby a person renounces a claim upon another person or against any specified property—

(a) If the amount or value of the claim does not exceed Rs. 1,000	The same duty as a Bottomry Bond (No. 14) for such amount or] value as set forth in the release
(b) In any other case	Twenty two rupees fifty paise.";

(xiii) for entries 49 to 55 the following entries shall be substituted, namely:—

"49 SECURITY BOND OR MORTGAGE DEED, executed by way of security for the due execution of an office or to account for money or other property received by virtue thereof or executed by a surety to secure the due performance of a contract—

(a) When the amount secured does not exceed Rs. 1,000	The same duty as a Bottomry Bond (No. 14) for the amount secured
(b) in any other case	Twenty-two rupees fifty paise

Exemptions

Bond or other instruments, when executed—

(a) [7] by any person for the purpose of guaranteeing that the local income derived from private

Sl. No.	Description of instrument	Proper stamp duty
	subscriptions to a charitable dispensary or hospital or any other object of public utility, shall not be less than a specified sum per mensem; (b) executed by persons taking advances from Government for agricultural purposes or by their sureties as security for the repayment of such advances; (c) executed by officers of Government or their sureties to secure the due execution of an office or the due accounting for money or other property received by virtue thereof.	
50	SETTLEMENT A. Instrument of (including a deed of dower)	The same duty as a Bottomry Bond (No. 14) for a sum equal to the amount or value of the property settled as set forth in such settlement: Provided that where an agreement to settle is stamped with the stamp required for an instrument of settlement and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed two rupees thirty paise
	Exemption Deed of dower executed on the occasion of a marriage between Muhammadans.	
	B. Revocation of:	The same duty as a Bottomry Bond (No. 14) for a sum equal to the amount or value of the property concerned as set forth in the instrument of revocation, but not exceeding fortyfive rupees

51	SHARE WARRANTS to bearer issued under the Companies Act, 1956 (Central Act 1 of 1956)	One and a half times the duty payable on a conveyance (No. 21 or 21A, as the case may be) for a consideration equal to the nominal amount of the shares specified in the warrant
	Exemptions Share warrant when issued by a company in pursuance of section 114 of the Companies Act, 1956, to have effect only upon payment, as composition for that duty to the Collector of Stamp revenue of— (a) one and a half per centum of the whole subscribed capital of the company; (b) if any company which has paid the said duty or composition in full, subsequently issues an addition to its subscribed capital, one and a half per centum of the additional capital so issued	
52	SHIPPING-ORDER for or relating to the conveyance of goods on board of any vessel	Twenty paise
53	SURRENDER OF LEASE—	
	(a) when the duty with which the lease is chargeable does not exceed twenty-two rupees fifty paise	The duty with which such lease is chargeable;
	(b) in any other case	Twenty-two rupees fifty paise
	Exemption Surrender of lease, when such lease is exempted from duty	
54	TRANSFER (whether with or without consideration)—	
	(a) of debentures being marketable securities, whether the debenture is liable to duty or not	One rupee for every one hundred rupees or part thereof of the face amount of the debenture

Sl. No.	Description of instrument	Proper stamp duty
	(b) of debenture stocks	One rupee for every one hundred rupees or part thereof of the face amount of the debenture stock
	(c) of any interest secured by a bond, mortgage deed or policy of insurance—	
	(i) if the duty on such a bond, mortgage deed or policy does not exceed twenty-two rupees fifty paise	The duty with which such bond, mortgage deed or policy of insurance is chargeable
	(ii) in any other case	Twenty-two rupees fifty paise
	(d) of any property under the Administrators-General Act, 1963, section 22 (Central Act 45 of 1963)	Thirty-three rupees eighty paise
	(e) of any trust property without consideration from one trustee to another trustee or from a trustee to a beneficiary	Sixteen rupees ninety paise or such smaller amount as may be charged under clauses (a) to (c) of this article
	Exemptions	
	Transfer by endorsement—	
	(a) of a bill of exchange, cheque or promissory note;	
	(b) of a bill of lading, delivery order, warrant for goods or other mercantile document of title to goods;	
	(c) of a policy of insurance;	
	(d) of securities of the Central Government	
55	TRANSFER OF LEASE by way of assignment and not by way of under-lease	The same duty as a Conveyance (No. 21 or 21A, as the case may be) for a consideration equal to the amount of the consideration for the transfer
	Exemption	
	The transfer of any lease exempt from duty."	

STATEMENT OF OBJECTS AND REASONS

The proviso to section 6 of the Kerala Stamp Act, 1959, provides that nothing contained in the Act shall render chargeable with duty exceeding two rupees a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper stamp duty has been paid. According to the revised proposals, the maximum stamp duty leviable on counterparts or duplicates is four rupees fifty paise (Article 23 of the Schedule). In order to make the proviso to section 6 in conformity with Article 23 of the Schedule, it is proposed to amend the proviso suitably.

2. Section 16 of the Act provides that where the duty with which an instrument is chargeable, or its exemption from duty, depends upon the duty actually paid in respect of another instrument, the Collector or the Registering Officer shall, on application and production of both the instruments, denote upon the subsequent instrument the stamp duty which has been paid on the prior instrument. If the party does not make an application and consequently no endorsement of the duty paid on the prior instrument is made, difficulties may arise when questions as to the sufficiency of the stamp duty paid on the instrument is raised and the prior instrument is not forthcoming. It is, therefore, considered necessary to provide for making the endorsement by the Registering Officer in all such cases, whether there is an application for the purpose or not, provided both the documents are produced before the Registering Officer. The requirement as to application is proposed to be retained in cases where the endorsement is to be made by the Collector.

3. The stamp duty chargeable on Central Excise Bonds has not been specified in the Act. Central Excise Bonds are similar to customs Bonds and therefore, they have to be treated on a par with Customs Bonds for the purpose of stamp duty. The duty chargeable on Customs Bond is specified in Article 24 of the Schedule. It is proposed to amend the article by specifically including Central Excise Bonds within its scope.

4. There is a growing tendency among the public to undervalue documents with the intention to defraud the Government of stamp duty. The law as it stands at present does not enable any authority to go into the question of undervaluation of documents and collect the real duty that should have been paid for the true consideration that has passed between the parties. In Orissa, a step has been taken to plug the lacuna to the extent possible by amending the Indian Stamp Act in its application to the Orissa State, providing for a reference

to the Collector for determining the true consideration passed between the parties and for determining the duty payable on the documents, whenever a registering officer has reason to believe that the value of the property or the consideration passed has not been truly set forth in the instrument. It is proposed to incorporate a similar provision in the Kerala Stamp Act, 1959.

5. In order to raise additional revenue for financing the Fourth Five Year Plan, it is considered necessary to raise the rates of stamp duty prevailing in the State.

6. The Bill is intended to achieve the above objects. Opportunity is also proposed to be taken to substitute 'paise' for "naye paise" wherever the words occur in the Act.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill seeks to substitute a new section for section 16 of the Kerala Stamp Act. The new section 16 provides that the payment of duty shall be denoted by endorsement under the hand of the Collector or the Registering Officer, as the case may be , or in such other manner as the Government may, by rules prescribe.

2. Clause 6 of the Bill seeks to insert a new section 45A in the Kerala Stamp Act. Sub-section (2) of that section provides that the Collector shall hold an enquiry in such manner as may be prescribed by rules made under the Act. Sub-section (5) of that section provides that the District Court hearing an appeal under the section shall hear and dispose of the appeal in such manner as may be prescribed by rules made under the Act.

3. The above matters pertain to procedure and as such the delegation of legislative powers is of a normal character.

K. R. GOURI

GOVERNMENT OF KERALA
1967

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THE KERALA LEGISLATURE SECRETARIAT
NOTIFICATION

No. 2821|LA4|67. *Dated, Trivandrum, 26th June 1967.*

The following Bill together with the Statement of Objects and Reasons, the Financial Memorandum and the Memorandum regarding Delegated Legislation is published, under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

L. Dharmaraja Iyer,
Secretary,
Legislative Assembly.

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(L.A. Bill No. 16 of 1967.)

THE UNREGISTERED CASHEWNUT FACTORIES PROHIBITION BILL, 1967

A

BILL

to prohibit the working of unregistered cashewnut factories in the State of Kerala.

Preamble.—WHEREAS it is expedient to prohibit the working of unregistered cashewnut factories in the State of Kerala;

BE it enacted in the Eighteenth Year of the Republic of India as follows:—

1. *Short title and extent.*—(1) This Act may be called the Unregistered Cashewnut Factories Prohibition Act, 1967.

(2) It extends to the whole of the State of Kerala.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "Factories Act" means the Factories Act, 1948 (Central Act 63 of 1948);

(b) "Inspector" means an Inspector appointed or deemed to be appointed under section 3;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "processing", with reference to cashewnuts, includes extraction of cashewnut oil and, roasting, shelling and treating of cashewnuts;

(e) "unregistered cashewnut factory" means a factory or premises wherein processing of cashewnuts is being carried on, which has not been registered or licensed in pursuance of the rules made under section 6 of the Factories Act;

(f) words and expressions used but not defined in this Act and defined in the Factories Act, shall have the meanings respectively assigned to them in that Act.

3. *Inspectors.*—(1) The Government may, by notification in the Gazette, appoint such persons as they think fit to be Inspectors for the purposes of this Act and may assign to them such local limits as the Government may think fit.

(2) An Inspector appointed under sub-section (1) of section 8 of the Factories Act shall be deemed to be an Inspector for the purposes of this Act within the local limits assigned

to him under the Factories Act, unless and until another person is appointed to be an Inspector for the purposes of this Act with jurisdiction within the said local limits.

4. *Prohibition of processing of cashewnuts in unregistered factories.*—No person shall process any cashewnut in an unregistered cashewnut factory.

5. *Powers of Inspectors.*—(1) An Inspector may, if he has reasons to believe that processing of cashewnuts in contravention of section 4 is being, or is about to be, carried on in any premises,—

(a) enter such premises, if necessary by force, at any time for the purpose of search of the premises;

(b) seize any cashewnuts in respect of which the provisions of section 4 are being, or are about to be, contravened, along with the package, covering or receptacle, if any, in which such cashewnuts are found;

(c) seize any books of account, return or any other document relating to any cashewnuts in respect of which the provisions of section 4 are being, or are about to be, contravened.

(2) The provisions of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898), relating to search and seizure shall, so far as they are applicable, apply in relation to search and seizure made under this section.

6. *Penalties.*—If any person contravenes or attempts to contravene or abets the contravention of the provisions of section 4, or of any rule made under this Act, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both; and in the case of a continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

7. *Offences by companies.*—(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

8. *Forfeiture of cashewnuts, etc.*—Where any person has been convicted under this Act for the contravention of any provision of this Act or of any rule thereunder, the cashewnuts in respect of which the contravention has been committed, together with the package, covering or receptacle, if any, in which such cashewnuts were found shall be forfeited to the Government on the orders of the court to that effect.

9. *Cognizance of offences.*—(1) No court shall take cognizance of any offence punishable under this Act except upon complaint made by an Inspector.

(2) No court below the rank of a Magistrate of the First Class shall try any offence punishable under this Act.

10. *Protection of action taken in good faith.*—(1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act or any rule or order made thereunder.

(2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act or any rule or order made thereunder.

11. *Inspectors to be public servants.*—Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

12. *Power to make rules.*—(1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen

days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees in making any modification in the rule or the Legislative Assembly agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

13. *Penal and saving.*—(1) The Unregistered Cashewnut Factories Prohibition Ordinance, 1967 (5 of 1967), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act as if this Act had commenced on the 15th day of June, 1967.

STATEMENT OF OBJECTS AND REASONS

The Cashew Industry which is labour intensive is employing a large number of workers. Several cashewnut processing factories in the State have closed down their business resulting in large-scale unemployment and unrest among the labourers. In spite of this, there has been an increase in the quantity of finished products available for export. Enquiries reveal that the managements have been able to get the raw nuts processed clandestinely through the help of paid agents. The nuts are got processed in unhygienic places by agents employing cheap labour. The operations are carried on in isolated places and in such a way that it is difficult to prosecute the offenders under the Factories Act. Moreover, the punishment prescribed in the Factories Act is not sufficiently deterrent. This illicit practice has assumed such alarming proportions that the very existence of the cashew industry has been threatened and if this practice is allowed to go unchecked, organised cashew industry as such will practically become extinct. In a conference convened by Government to explore the possibilities of putting down this nefarious practice, the representatives of both the labour and management were of the view that this practice should be put an end to and until that the revised minimum wages could not be effectively enforced. It was therefore considered that the continuance of this practice of Kudivarappu would do no good to the industry or the labour force employed in the industry. The provisions in the Factories Act being inadequate, it was considered that immediate action should be taken to prohibit the unregistered cashewnut factories in the State.

2. Since the Legislative Assembly was not in session, the Unregistered Cashewnut Factories Prohibition Ordinance, 1967 (5 of 1967), was promulgated by the Governor on the 15th June, 1967, for the above purpose. The Bill seeks to replace the Ordinance by an Act of the Legislature.

FINANCIAL MEMORANDUM

Clause 3(1) of the Bill provides for the appointment of Inspectors for the purposes of the Act. Clause 3(2) however provides that an Inspector appointed under the Factories Act shall be deemed to be an Inspector for the purposes of the proposed legislation also.

2. Government do not intend appointing any Inspector under clause 3(1) exclusively for the enforcement of the Act. The Factories Inspectors appointed under the Factories Act can successfully attend to the enforcement of the proposed legislation also within their respective factory divisions. Hence, the Bill if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill seeks to empower the Government to make rules for the purpose of carrying into effect the provisions of the Act. The matters in respect of which rules may be made are only matters of procedure and administrative detail. The delegation of legislative power is thus of a normal character.

MATHAI MANJOORAN